

DOW, LOHNES & ALBERTSON, PLLC
ATTORNEYS AT LAW

ORIGINAL

MARGARET L. MILLER
DIRECT DIAL 202-776-2914
mmiller@dowlohn.com

WASHINGTON, D.C.
1200 NEW HAMPSHIRE AVENUE, N.W. • SUITE 800 • WASHINGTON, D.C. 20036-6802
TELEPHONE 202-776-2000 • FACSIMILE 202-776-2222
www.dowlohn.com

ONE RAVINIA DRIVE • SUITE 1600
ATLANTA, GEORGIA 30346-2108
TELEPHONE 770-901-8800
FACSIMILE 770-901-8874

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August 16, 2005

Via Regular Mail

Marlene H. Dortch, Esq.
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554
ATTENTION: Nazifa Sawez
Room 2-A726

RECEIVED

AUG 16 2005

Federal Communications Commission
Office of Secretary

NOTE: No filing fee required

Re: DTV Channel Election of NTSC Channel 8
NCE Station KTSC (TV/DT), Pueblo, Colorado
Facility ID No.69170/ FRN: 0001615582
Form 383 FCC File No. BFRCE-20050812A00
MB Docket No. 03-15

Dear Ms. Dortch:

On behalf of Rocky Mountain Public Broadcasting Network, Inc. ("Rocky Mountain"), licensee of noncommercial educational television station KTSC(TV/DT), Pueblo, Colorado, and pursuant to "DTV Channel Election: First Round Conflict Decision Extension and Guidelines for Interference Conflict Analysis," Public Notice, DA 05-2233, August 2, 2005 ("Public Notice"), we hereby submit the following information to supplement Rocky Mountain's election of its NTSC Channel 8 for station KTSC-DT, as reflected in its FCC Form 383 submission (FCC File No. BFRCE-20050812A00). The ECFS and e-mail filings were made yesterday, August 15, 2005.

-- A copy of an interference acceptance agreement (titled "Amended Negotiated Channel Election Conflict Resolution Agreement") between Rocky Mountain as licensee of noncommercial educational Station KTSC(TV/DT), Pueblo, Colorado, and McGraw-Hill Broadcasting Company, as licensee of station KMGH-TV/DT, Denver, Colorado, pursuant to which Rocky Mountain has agreed to accept 33.5% interference from KMGH-DT, and McGraw-Hill has agreed to accept 1.3% interference from KTSC-DT as specified in the FCC's letters of June 7, 2005; and

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Marlene H. Dortch, Esq.

August 16, 2005

Page 2

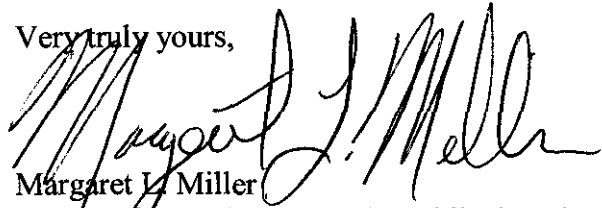
-- A copy of the Joint Request for Approval of DTV Channel Elections, submitted by Rocky Mountain and McGraw-Hill, discussing the justifications supporting their respective channel elections; and

-- A copy of a Joint Engineering Statement from Rocky Mountain and McGraw Hill's consulting engineer, which provides public interest justifications for the Commission's allowance of the specified levels of mutual interference from KTSC-DT to KMGH-DT and vice versa.

Rocky Mountain is a noncommercial educational licensee and operates Station KTSC (TV/DT) on a noncommercial educational basis. The station is therefore exempt from FCC filing fee requirements pursuant to Section 1.1114 of the Commission's Rules, and the facility is exempt from FCC regulatory fees, pursuant to Section 1.1162 of the Rules.

Should any questions arise concerning this matter, kindly contact this office.

Very truly yours,

A handwritten signature in black ink, appearing to read "Margaret L. Miller". The signature is fluid and cursive, with the first name "Margaret" being more prominent than the last name "Miller".

Margaret L. Miller
Counsel for Rocky Mountain Public Broadcasting
Network, Inc.

Enclosures (3)

cc: Nazifa Sawez (FCC)
Kevin Latek, Esq., Counsel for Station KMGH-TV/DT

Marlene H. Dortch, Esq.
August 16, 2005
Page 3

bcc: Jim Schoedler

AUG-02-2005 14:01

KMGH

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INTERFERENCE ACCEPTANCE AGREEMENT

THIS INTERFERENCE ACCEPTANCE AGREEMENT is made as of July 2, 2005 between Rocky Mountain Public Broadcasting Network, Inc. ("Rocky Mountain") and McGraw-Hill Broadcasting Company, Inc. ("McGraw-Hill").

Rocky Mountain is the licensee of analog television broadcast station KTSC(TV), Channel 8, Pueblo, Colorado. On January 31, 2005, Rocky Mountain made a first-round channel election filing with the Federal Communications Commission ("FCC") pursuant to which Rocky Mountain elected Channel 8 for KTSC's operations after the close of the digital television ("DTV") transition.

McGraw-Hill is the licensee of analog television broadcast station KMGH(TV), Channel 7, Denver, Colorado. On February 9, 2005, McGraw-Hill made a first-round channel election filing with the FCC pursuant to which McGraw-Hill elected Channel 7 for KMGH's operations after the close of the DTV transition.

The FCC has determined that a "conflict" exists between the channel elections of KTSC and KMGH. According to the FCC, KTSC is predicted to cause interference to 1.3% of KMGH's service area population, and KMGH is predicted to cause interference to 33.5% of KTSC's service area population.

Consistent with the FCC's Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television, *Report and Order*, MB Docket No. 03-15 (rel. Sept. 7, 2004), and for the purpose of obtaining grant of KTSC's channel election and KMGH's channel election, each of Rocky Mountain and McGraw-Hill hereby agree that it will accept all interference caused by the other party's station based upon the lesser of: (a) the facilities certified to the FCC in KTSC's Form 381 filing (FCC File No. BCERCT-20041105ADR) and in KMGH's Form 381 filing (FCC File No. BCERCT-20041104AHO); or (b) the facilities of KTSC and KMGH entitled to interference protection as of the applicable maximization/replication deadline, as extended by the FCC. Each of Rocky Mountain and McGraw-Hill shall take all commercially reasonable steps to satisfy any questions or concerns raised by the FCC with respect to their first-round DTV election filings, notify the other of any such FCC inquiries, and furnish all information requested by the FCC with respect thereto.

No amendment or waiver of compliance with any provision hereof or consent pursuant to this Agreement shall be effective unless in a writing signed by the party against whom enforcement is sought. Neither party may assign this Agreement without the prior written consent of the other party, which shall not be unreasonably withheld. This Agreement constitutes the entire agreement and understanding of the parties hereto and supersedes all prior agreements and understandings with respect to the subject matter hereof. Nothing in this Agreement expressed or implied is intended or shall be construed to give any rights to any person or entity other than the parties hereto and their respective successors and permitted assigns. This Agreement shall be governed by the laws of the State of Colorado without giving effect to the choice of law provisions thereof. Each party shall bear all of its expenses incurred in connection with the transactions contemplated by this Agreement, including without limitation accounting and legal fees incurred in connection herewith. No consideration is being paid by either party in connection with this Agreement.

[SIGNATURE PAGE FOLLOWS]

AUG-02-2005 14:01

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SIGNATURE PAGE TO INTERFERENCE ACCEPTANCE AGREEMENT

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first set forth above.

ROCKY MOUNTAIN PUBLIC BROADCASTING NETWORK, INC.

By: 

Name:

Title:

MCGRAW-HILL BROADCASTING COMPANY, INC.

By: 

Name: Darrell K. Brown

Title: V.P. General Manager

TOTAL P.03

TECHNICAL EXHIBIT
PREPARED IN SUPPORT OF
INTERFERENCE SHOWING INVOLVING KMGH AND KTSC
PROPOSED DTV STATION KMGH-DT
DENVER, COLORADO
CH 7 37.4 KW (MAX-DA) 295 M

Technical Narrative

Station KTSC is a non-commercial, educational (NCE) television station licensed (BLET-20010111ABS) for NTSC operation on channel 8 at Pueblo, Colorado. It has a maximum directional effective radiated power (ERP) of 234 kilowatts and an antenna radiation center height above average terrain (HAAT) of 720 meters. It is also authorized by construction permit (BPEDT-20000501AGQ) to operate on DTV channel 26 with a maximum directional ERP of 1000 kilowatts and an HAAT of 699 meters. KTSC has elected its NTSC channel (8) for its post transition operation.

Station KMGH is licensed (BLCT-19970805KM) for NTSC operation on channel 7 at Denver, Colorado with a non-directional ERP of 316 kilowatts and an HAAT of 310 meters. It is also authorized by construction permit (BMPCDT-20000421AAV) to operate on DTV channel 17 with a maximum directional ERP of 1000 kW and an HAAT of 295 meters. KMGH has also elected its NTSC channel (7) for its post transition operation.

It is believed the FCC employed the following parameters for the elected post transition facilities of stations KMGH and KTSC to prepare their interference analysis.

Call Sign	Channel	ERP(kW)	RCAMSL(m)	HAAT(m)	Antenna
KMGH	7	37.4	2304	295	DA
KTSC	8	20.32	2964	727	DA

Both stations received conflict letters as each station is predicted to cause interference to each other in excess of the 0.1% limit.

Figure 1 is a map displaying the 36 dBu noise-limited coverage contour for the proposed KTSC operation on DTV channel 8,

along with the predicted points of unique interference it is predicted to receive from KMGH. Based on the FCC's interference calculations, the proposed KMGH digital operation is predicted to cause unique interference to 463,772 persons within the KTSC service population which amounts to 33.45% of the FCC's baseline of 1,386,408. All of the KMGH interference cells are located outside of KTSC's designated market area (DMA), Colorado Springs-Pueblo. Also shown on Figure 1 are the noise-limited contours of other authorized or licensed DTV stations that provide service in the area predicated to receive interference. Figure 1A is a tabulation of the stations providing service. As shown, the area is still well served as the noise limited contours of 13 other DTV stations completely encompass the area predicted to receive service. Three of these DTV stations providing service to the predicted interference area are non-commercial education television stations, including Rocky Mountain's Denver owned and operated television station, KRMA.

Figure 2 is a map displaying the 36 dBu noise-limited coverage contour for the proposed KTSC operation on DTV channel 8, the points of unique interference it is predicted to receive from KMGH, and the 28 dBu noise-limited coverage contour for the elected DTV facility of co-owned station KRMA. As shown, the areas where KTSC is predicted to receive interference is still served by KRMA.

Figure 3 is a map displaying the 36 dBu noise-limited coverage contour for the proposed KMGH operation on DTV channel 7, along with the predicted points of unique interference it is predicted to receive from KTSC. Based on the FCC's interference calculations, the proposed KMGH digital operation is predicted to cause unique interference to 38,160 persons within the KMGH service population which amounts to 1.3% of the FCC's baseline of 2,937,365. All of the KTSC interference cells are located outside of KMGH'S designated market area (DMA), Denver. Also shown on Figure 3 are the noise-limited contours of other authorized or licensed DTV stations that provide service in the area predicated to receive interference. Figure 2A is a tabulation of the stations providing service. As shown, the area is still well served as the noise limited contours of 10 other DTV stations completely encompass the area predicted to receive service.

Figure 4 is a map displaying the licensed NTSC and proposed DTV coverage contours for station KTSC, if it is successful in electing to Channel 8. Shown by the blue symbols are the existing interference and terrain limited points within KTSC's NTSC Grade B contour. The red symbols are where KMGH-DT operating on Channel 7 would create unique interference to KTSC-DT operating on Channel 8 and where KTSC currently provides analog Grade B service not affected by terrain and/or interference.¹ Therefore, these points represent a population of 18,200 persons that have current NTSC service from KTSC and would subsequently receive interference once KTSC and KMGH operate in DTV mode.

Figure 5 is a map displaying the authorized NTSC and proposed DTV coverage contours for station KMGH, if it is successful in electing to Channel 7. Shown by the blue symbols are the existing interference and terrain limited points within KMGH's NTSC Grade B contour. The red symbols are where KTSC-DT operating on Channel 8 would create unique interference to KMGH-DT operating on Channel 7 and where KMGH currently provides analog Grade B service not affected by terrain and/or interference. Therefore, these points represent a population of 7,850 persons that have current NTSC service from KTSC and would subsequently receive interference once KMGH and KTSC operate in DTV mode.

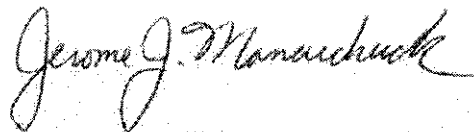
The cumulative interference KMGH is predicted to receive post transition was calculated. Based on our analysis KMGH is predicted to receive interference to 59,805 persons, which is 2.0% of the calculated post transition baseline of 2,956,719. The cumulative interference KTSC is predicted to receive is 1,167,552 persons, which is 56.47% of the calculated post transition baseline of 2,067,568.

Finally, it is noted that the proposed KMGH site also meets the minimum separation requirement with respect to first adjacent station KTSC. The KMGH site located 114 kilometers away

¹ The du Treil, Lundin & Rackley, Inc. DTV interference analysis program is based on the program and procedures outlined by the FCC in the Sixth Report and Order; subsequent Memorandum Opinion and Order; and FCC OET Bulletin No. 69. A nominal grid size resolution of 2 km was employed. An Alpha based processor computer system was employed.

from the KTSC site. The separation requirement for first adjacent VHF DTV stations operating in Zone 2 are no allotments permitted between 23 and 110 kilometers. Thus, the KMGH site exceeds the minimum separation requirement to KTSC by 4 kilometers.

If there are questions concerning the technical portion of this application, please contact the office of the undersigned.



Jerome J. Manarchuck

du Treil, Lundin & Rackley, Inc.
201 Fletcher Ave.
Sarasota, California 34237
(941) 329-6000
JERRY@DLR.COM

August 15, 2005

DENVER, COLORADO

AUTHORIZED DTV STATIONS PROVIDING SERVICE TO KTSC-DT INTERFERENCE AREA

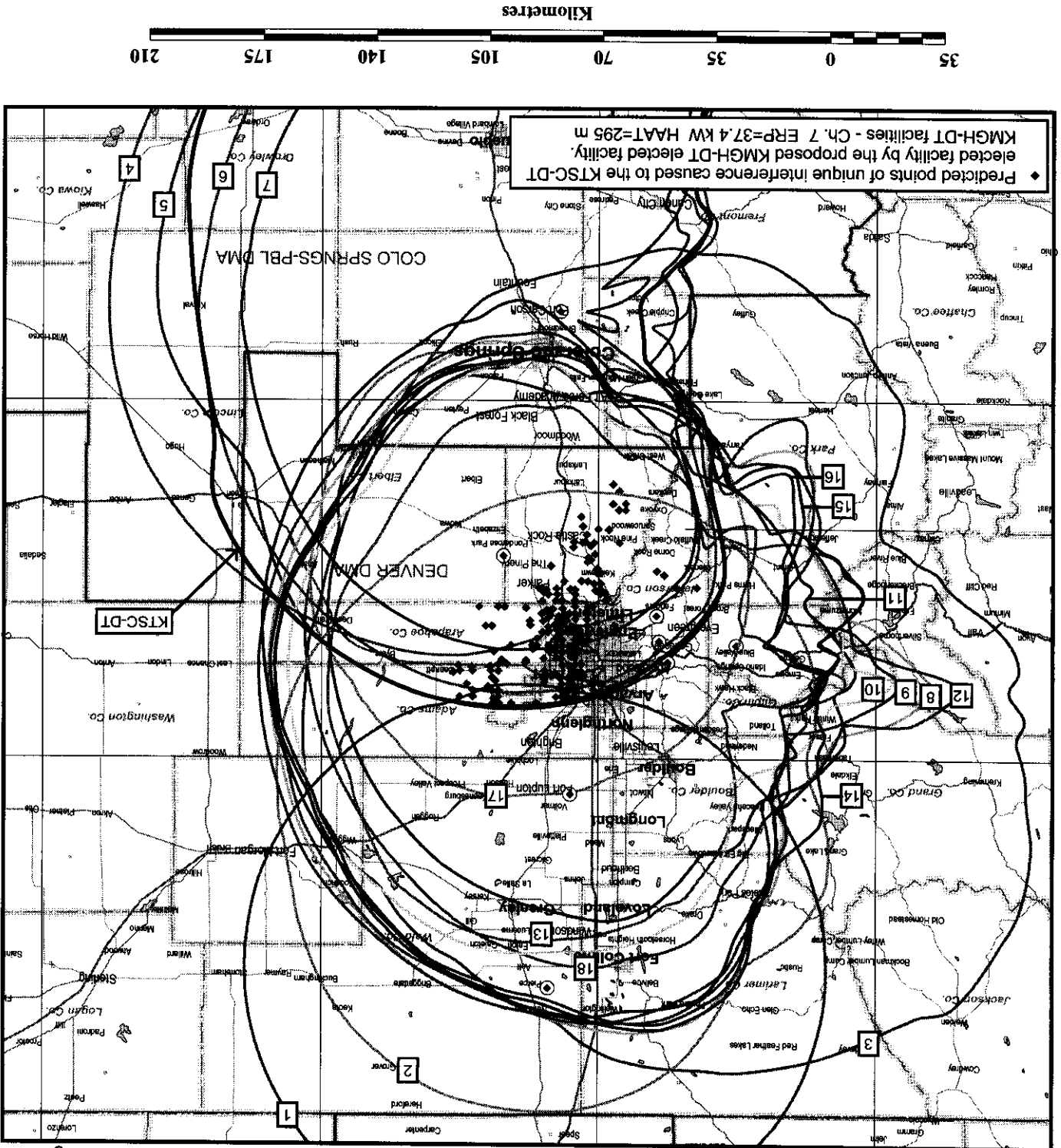
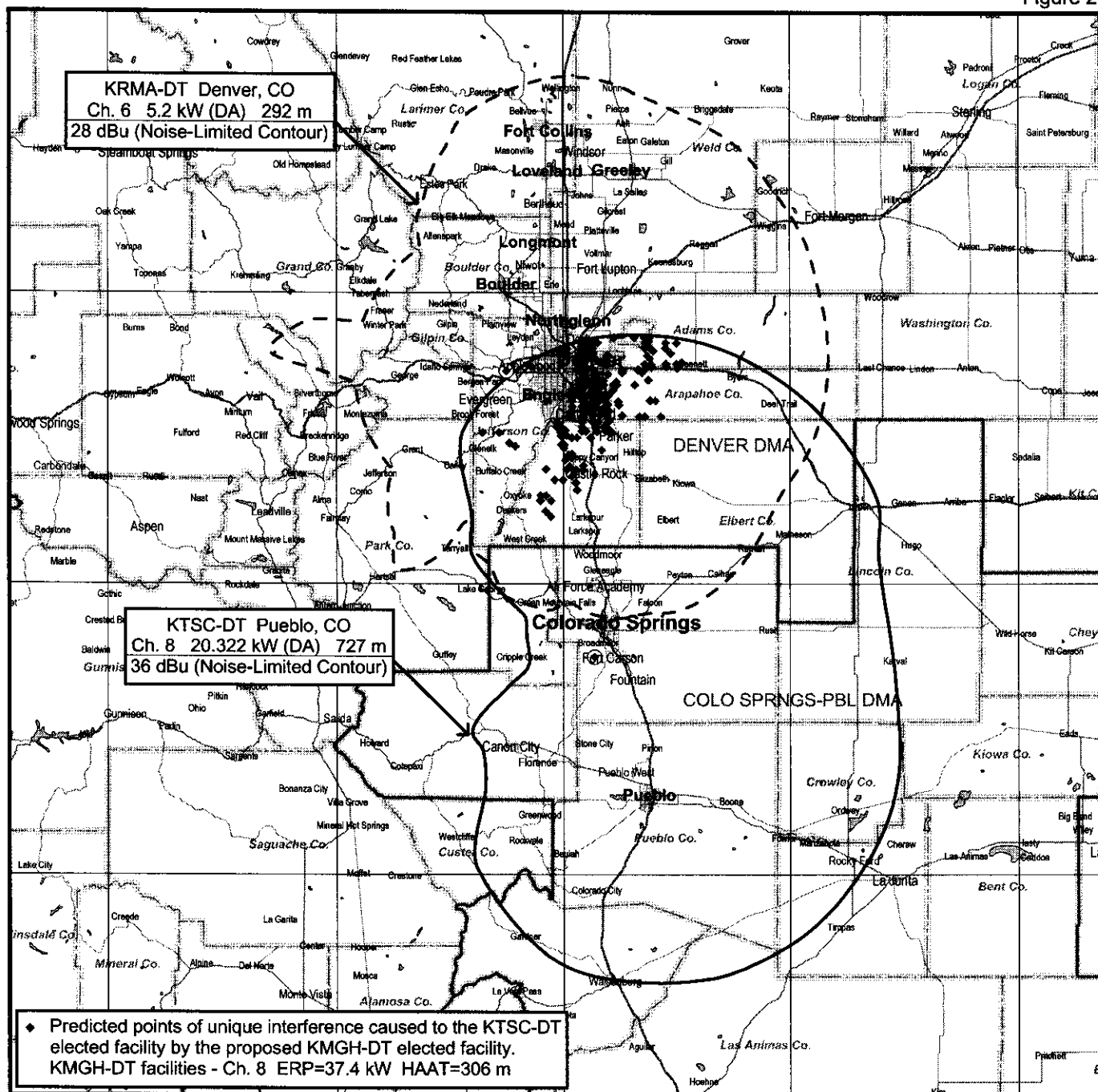


Figure 1

FIGURE 1A

	Station	Channel	LICENSED COMMUNITY	FILE ARN
1	KFCT	22	FORT COLLINS, CO	(BMPCDT-20040618AD)
2	KDEN	29	LONGMONT, CO	(BMPCDT-20040524AO)
3	KBDI	38	BROOMFIELD, CO	(BPEDT-20000428ACX)
4	KOAA	42	PUEBLO, CO	(BPCDT-19991029AG)
5	KKTV	10	COLORADO SPRINGS, CO	(BLCDT-20030512ADQ)
6	KRDO	24	COLORADO SPRINGS, CO	(BMPCDT-20050408AB)
7	KXRM	22	COLORADO SPRINGS, CO	(BLCDT-20030702ABE)
8	KWGN	34	DENVER, CO	(BPCDT-19991029AH)
9	KCNC	35	DENVER, CO	(BMPCDT-20000501ADD)
10	KCEC	51	DENVER, CO	(BPCDT-19991029ACN)
11	KRMT	40	DENVER, CO	(BPEDT-20000501AHN)
12	KRMA	18	DENVER, CO	(BMPEDT-20030728AJU)
13	KDVR	32	DENVER, CO	(BLCDT-19991101ADA)
14	KPXC	43	DENVER, CO	(BPCDT-19990923AA)
15	KUSA	16	DENVER, CO	(BMPCDT-20000501ADN)
16	KTVB	19	DENVER, CO	(BMPCDT-19981231KE)
17	KWHD	46	CASTLE ROCK, CO	(BPCDT-19991005AB)
18	KTFD	15	BOULDER, CO	(BMPCDT-20040624ACV)

Figure 2



A horizontal scale bar with alternating black and white segments. Numerical labels are placed above the bar at intervals of 45, starting from 45 on the left and ending at 270 on the right. The word "Kilometers" is centered below the bar.

PREDICTED INTERFERENCE FROM KMGH-DT ELECTED FACILITY TO THE KTSC-DT ELECTED FACILITY

DTV STATION KTSC-DT
PUEBLO, COLORADO
CH 8 20.322 KW 727 M

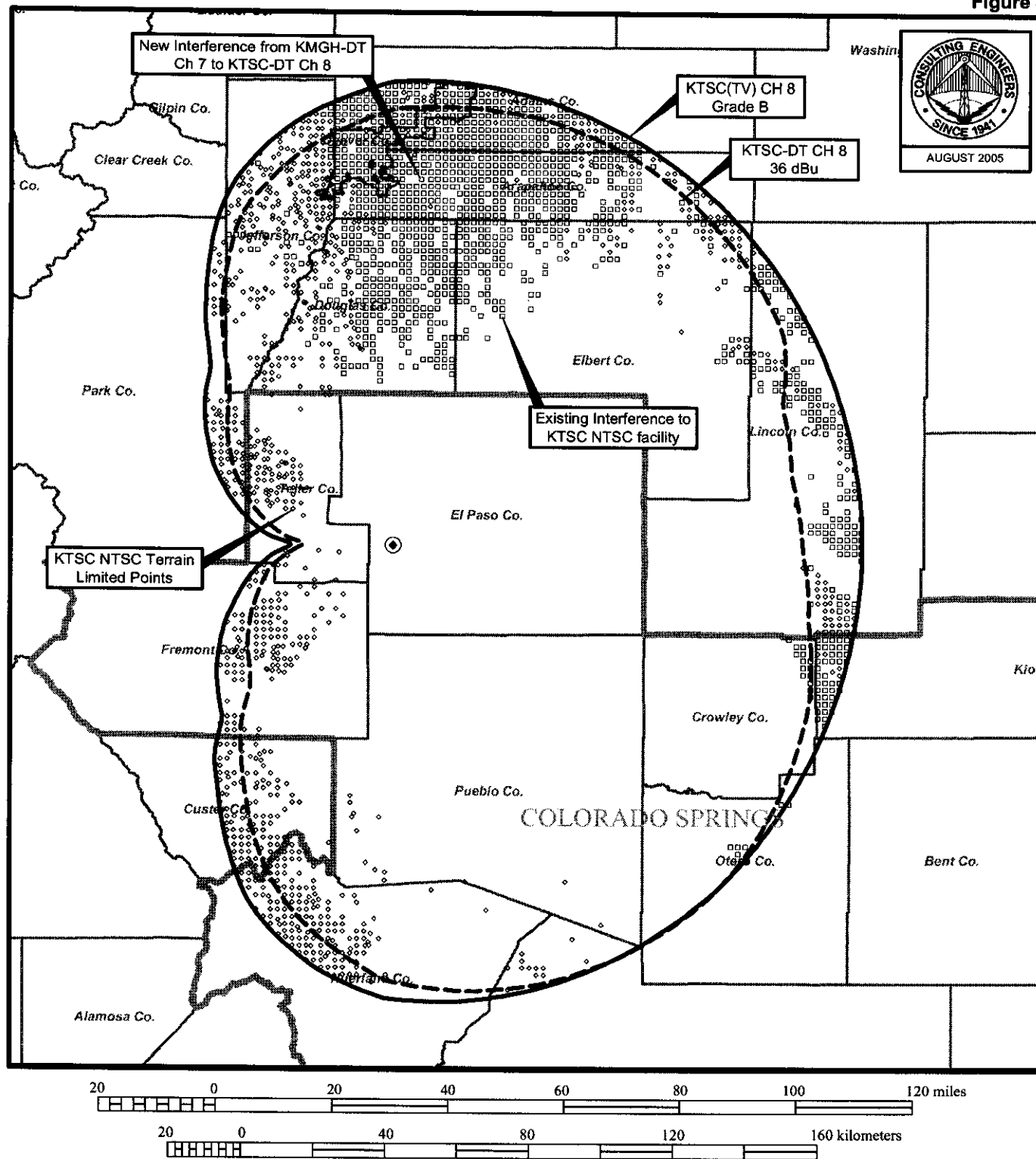
du Treil, Lundin & Rackley, Inc. Sarasota, Florida



FIGURE 3A

	Station	Channel	LICENSED COMMUNITY	FILE ARN
1	KBDI	38	BROOMFIELD, CO	(BPEDT-20000428ACX)
2	KWGN	34	DENVER, CO	(BPCDT-19991029AH)
3	KCNC	35	DENVER, CO	(BMPCDT-20000501ADD)
4	KCEC	51	DENVER, CO	(BPCDT-19991029ACN)
5	KRMT	40	DENVER, CO	(BPEDT-20000501AHN)
6	KPXC	43	DENVER, CO	(BPCDT-19990923AA)
7	KTFD	15	BOULDER, CO	(BMPCDT-20040624ACV)
8	KUSA	16	DENVER, CO	(BMPCDT-20000501ADN)
9	KTVB	19	DENVER, CO	(BMPCDT-19981231KE)
10	KRMA	18	DENVER, CO	(BMPCDT-20030728AJU)
11	KDVR	32	DENVER, CO	(BLCDT-19991101ADA)
12	KWHD	46	CASTLE ROCK, CO	(BPCDT-19991005AB)
13	KKTV	10	COLORADO SPRINGS, CO	(BLCDT-20030512ADQ)
14	KOAA	42	PUEBLO, CO	(BPCDT-19991029AG)
15	KXRM	22	COLORADO SPRINGS, CO	(BLCDT-20030702ABE)
16	KRDO	24	COLORADO SPRINGS, CO	(BMPCDT-20050408AB)

Figure 4



PREDICTED KTSC SERVICE

du Treil, Lundin & Rackley, Inc., Sarasota, Florida

PREDICTED KMGH-DT SERVICE

du Trell, Lundin & Rackley, Inc., Sarasota, Florida

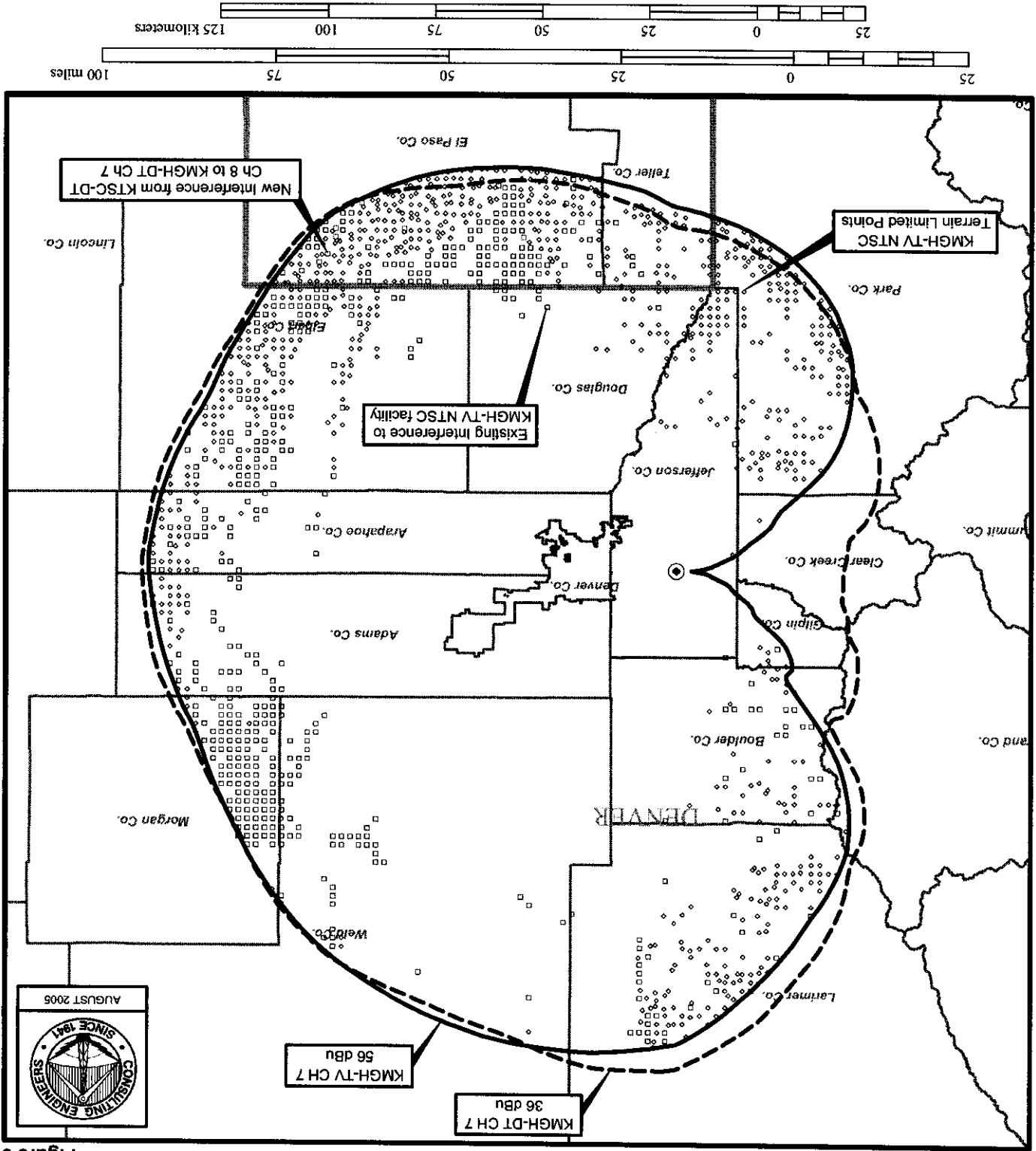


Figure 5

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Second Periodic Review of the)	MB Docket No. 03-15
Commission's Rules and Policies)	RM 9832
Affecting the Conversion to)	
Digital Television)	
)	
KMGH-DT, Denver, Colorado)	FCC File No BFRCCCT-20050815ADV
KTSC-DT, Colorado Springs, Colorado)	FCC File No BFRCCCT-20050815AOO
To: Office of the Secretary		
Attn: Chief, Media Bureau		

JOINT REQUEST FOR APPROVAL OF DTV CHANNEL ELECTIONS

McGraw-Hill Broadcasting Company, Inc. ("McGraw-Hill"), permittee of KMGH-DT, Denver, Colorado ("KMGH"), and Rocky Mountain Public Broadcasting Network, Inc. ("Rocky Mountain"), permittee of KTSC-DT, Pueblo, Colorado ("KTSC"), by their attorneys, hereby submit this Joint Request for Approval of DTV Channel Elections. KMGH serves as the ABC affiliate for the Denver Designated Market Area ("DMA"). KTSC serves as the PBS affiliate for the Colorado Springs-Pueblo DMA and is a satellite of Rocky Mountain's Denver parent station, KRMA-TV ("KRMA").

To advance the DTV transition in their markets in the most efficient manner, McGraw-Hill and Rocky Mountain elected their stations' analog channels of 7 and 8 respectively for post-transition operations. KMGH has operated on Channel 7 since 1953, while KTSC has operated on Channel 8 since 1971 and from its present location for almost four years. The existing Channel 7 and Channel 8 operations have not harmed the public. By their channel elections, McGraw-Hill and Rocky Mountain therefore seek merely to continue operating these stations' broadcast facilities on the same frequencies that they already use without incident.

Following notification from the Commission about its prediction of mutual interference, however, McGraw-Hill and Rocky Mountain promptly investigated the technical and operational aspects of their stations' channel elections – and options. After consideration of all relevant factors, the broadcasters concluded that the public interest would best be served by retaining their channel elections for KMGH and KTSC. Accordingly, the parties entered into the Interference Acceptance Agreement attached as Exhibit A, commissioned the Technical Statement of duTreil, Lundin & Rackley, Inc. attached as Exhibit B, and hereby request Commission approval of their DTV channel elections.

While both permittees are concerned about their stations' DTV facilities predicted inability to reach the entirety of those stations' baseline service populations, they conclude, as should the Commission, that other factors more than outweigh those concerns. McGraw-Hill and Rocky Mountain, therefore, submit that the Agreement does not raise irresolvable issues of concern for the Commission as enumerated in the Commission's August 2nd DTV Channel Election *Public Notice* (DA 05-2233). Moreover, as shown here, approval of the Agreement and the stations' respective channel elections would best serve the public interest and the goals of the DTV transition.

I. Amount of Proposed Interference

The Commission calculated that post-transition operation of KMGH on its elected Channel 7 would cause predicted interference to 33.5 percent of KTSC's service area population. The Commission calculated that post-transition operation of KTSC on its elected Channel 8 would cause predicted interference to 1.3 percent of KMGH's service area population. As discussed below, however, these levels of predicted interference grossly overstate the extent of new interference that would result from the proposed DTV channel elections.

II. Amount of Cumulative Interference

The Technical Statement calculates that KMGH's post-transition operation on Channel 7 would receive cumulative interference from all DTV stations of 2.0 percent of its baseline service population. It also concludes that KTSC's post-transition operation on Channel 8 would receive cumulative interference from all DTV stations of 56.47 percent of its baseline service population.

III. Availability of In-Core DTV Channels

The Commission assigned in-core DTV channels of 17 and 26 to KMGH and KTSC respectively. Nevertheless, numerous complicating factors affect these stations' DTV channel elections and make the assigned DTV channels much less desirable for post-transition operation. These factors, which are discussed in Section VI, are part and parcel of why the parties – independently of each other – elected their NTSC channels for their stations' post-transition operations and why use of those elected NTSC channels would best serve the public interest.

IV. Location of Interference

Figure 1 of the Technical Statement demonstrates that the area of predicted interference caused by KMGH to KTSC occurs *entirely outside* of KTSC's DMA. Figure 3 confirms that the area of predicted interference caused by KTSC to KMGH occurs *entirely outside* of KMGH's DMA. Consequently, the DTV channel elections will not prevent local viewers in the Denver and Colorado Springs markets from receiving their local ABC and PBS affiliates' signals.

As also reflected in the Technical Statement, McGraw-Hill and Rocky Mountain note that KMGH and KTSC are fully spaced for DTV allocation purposes.

V. Viewers in the Loss Area Would Remain Very Well Served

The Commission characterizes an area as “well served” if the residents in the area receive at least five full-power television services.¹ The Technical Statement confirms that both areas of predicted interference at issue here are well served. In particular, Figures 1 illustrates that the predicted KMGH-to-KTSC interference area would receive at least 13 other DTV services, including parent station KRMA and two other noncommercial television stations. Figure 3 confirms that the predicted KTSC-to-KMGH interference area would receive at least 10 other DTV services, including the ABC network’s local affiliate for the Colorado Springs DMA, KRDO-TV.

VI. Public Interest Considerations Compel the Commission’s Consent to the DTV Channel Elections.

A. Operation of KMGH and KTSC on their Elected Channels Will Not Cause A Noticeable Loss of Service.

Since KMGH and KTSC first signed on the air many decades ago, they have operated analog facilities on the very channels that the permittees now elect for the stations’ post-transition operations. That history and unique terrain issues demonstrate that the Commission’s prediction of mutual interference does not reflect the likelihood of any noticeable loss of service.

1. Interference Areas Do Not Receive Analog Service Today.

While the Commission predicted a sizeable loss of KTSC’s baseline service population, the fact is that the overwhelming majority of these residents cannot currently receive KTSC’s analog signal. Figure 4 of the Technical Exhibit illustrates the effect of the area’s severe terrain and interference from other NTSC and DTV services on the reception of KTSC’s signal in the

¹ See, e.g. Amendment of Sections 73.606(b), Table of Allotments, Television Broadcast Stations; and 73.622(b), Table of Allotments, Digital Broadcast Television Stations (Asheville, North Carolina and Greenville, South Carolina), *Report and Order*, DA 03-2479, ¶ 4 (2003).

predicted interference area. These features preclude KTSC from delivering its analog signal to the great majority of the area and population within the predicted area of interference. A mere 18,200 persons out of KTSC's baseline service population of 1,167,552 persons – representing just 1.3 percent – will receive new interference from KMGH's digital operations on Channel 7.

Likewise, the mountainous terrain and other NTSC and DTV services in the area impede KMGH's ability to provide analog service to the area of KTSC-to-KMGH predicted interference. As reflected in Figure 5, the interference area today receives very little service from KMGH's analog signal on Channel 7. In particular, only 7,850 persons within KMGH's baseline service population of 2,956,719 persons – representing just 0.3 percent – will receive new interference from KTSC's digital operations on Channel 8. Consequently, the stations' DTV channel elections will result in *de minimis* losses of technical service.

2. KTSC Does Not Provide Non-Technical Service to the Denver Interference Area.

Residents of the KMGH-to-KTSC predicted interference area, even if they could receive an analog signal from KTSC, simply do not watch that station. As the Figure 2 demonstrates, the predicted interference area lies entirely within the Denver DMA, as well as entirely within the service area of KTSC's parent station, KRMA. Rocky Mountain's KRMA provides essentially the same programming service as KTSC. In fact, the roughly five percent of KTSC's weekly programming that does not duplicate KRMA's programming is programming specifically produced for and directed at the Colorado Springs-Pueblo market.

Over-the-air viewers in the interference area are situated much closer to KRMA's transmitter and therefore receive a powerful signal from KRMA than KTSC. (The effect of antenna pointing also undercuts actual service from KTSC, because these Denver area residents point their antennas toward Denver, not Colorado Springs.) Residents in the effected area

accordingly tune to KRMA instead of KTSC for PBS programming service, and these viewers will continue to rely on KRMA regardless of the predicted interference to KTSC.

It is therefore irrelevant whether the population predicted to receive interference is 1% or 40% of KTSC's baseline service population because the permittee, Rocky Mountain, already serves those areas with essentially the same programming through another closer and more powerful full-power television station (KRMA). The 33.5 percent of the KTSC baseline service area population predicted to receive interference, therefore, does not point to an actual loss of service. The salient fact for the broadcasters here – and, they submit, for the Commission – is the nearly complete absence of interference from KMGH to the largely unduplicated service provided by Rocky Mountain's network. Accordingly, McGraw-Hill and Rocky Mountain submit that the extent of KMGH-to-KTSC predicted interference is not inconsistent with the Commission's goals or interference standards for DTV elections.

3. KMGH Does Not Provide Non-Technical Service to the Colorado Springs Interference Area.

The Colorado Springs television market has its own full-power ABC affiliate, KRDO-TV. As depicted in Figure 3, all areas of predicted interference caused by KTSC to KMGH occur within the Colorado Springs DMA and within the service area of KRDO-TV. As noted above, residents of the KTSC-to-KMGH interference area cannot receive KMGH's analog signal due to intervening terrain. Quite simply, residents of the interference area do not currently watch KMGH, and they instead watch, and will continue to watch, KRDO for ABC network service.

Consequently, not only would neither television station suffer a loss of viewers within its own market, but local viewers in Denver and Colorado Springs will retain their ability to receive their local ABC and PBS affiliates' signals. The Commission's calculation of predicted

interference from the DTV channel elections at issue here do not reflect or portend any actual loss of service.

B. Rocky Mountain Can Ill-Afford to Operate KTSC on its Assigned DTV Channel.

The continued use of VHF Channel 8 by KTSC would help to mitigate the already extensive financial, technical, and operational obstacles that Rocky Mountain faces in maintaining a regional public television station network in Colorado. Like any public broadcaster, Rocky Mountain must be a careful steward of its fiscal resources, a task made immensely more difficult for Rocky Mountain by the challenges of extensive mountainous terrain, vast plains, and varying climates throughout Colorado. Rocky Mountain succeeds in providing public television service to a majority of the state's residents through a network of four full-power television stations in Denver, Pueblo, Grand Junction, and Durango. Rocky Mountain has devoted substantial resources to the DTV transition, with total expenditures already totaling more than \$10 million for its four full-power television stations. Further significant expenses are anticipated to convert to DTV service Rocky Mountain's extensive television translator network, which provides service to countless residents whose access to over-the-air full-power signals are impeded by the state's geography.

Rocky Mountain has long planned for KTSC to return to its analog channel for post-transition operations, largely because of the immense cost savings associated with operating a VHF Channel (Channel 8) relative to the assigned UHF DTV Channel (Channel 26). Rocky Mountain sought and received a special federal grant for KTSC's DTV conversion through the Corporation for Public Broadcasting's ("CPB") Digital Universal Service Fund ("DUSF") program to permit it to build-out KTSC's DTV facilities on Channel 26 on a "low power" basis, consistent with the Commission's policies for low power DTV STAs.

As the Commission is well aware, CPB designed the DUSF program to provide funding for public DTV conversions.² In brief, the DUSF program places special emphasis on providing funding assistance to small and rural NCE stations that otherwise would be unable to pay for the costs of DTV conversion. It also provides grant awardees with the equipment needed to deliver basic DTV service to their local communities.

Rocky Mountain never intended to use DTV Channel 26 facilities for KTSC's post-transition operation, and, it therefore did not plan or seek funding for these facilities beyond that required to satisfy the Commission's build-out and replication deadlines. For Rocky Mountain now to switch to Channel 26 may result in additional – and unplanned – capital expenses of approximately \$1.5 million *as well as* additional – and unplanned – recurring expenses for power of approximately \$165,000 per year (representing a 500% increase). Forcing Rocky Mountain, at this late date in the transition, to use DTV Channel 26 for KTSC would impose an unreasonable and costly burden on a noncommercial educational licensee that already struggles against the geographical and topographical challenges in Colorado to serve its mission of providing the sole public television service to a rural area.

In its Fifth Report and Order on DTV conversion, the Commission recognized “that noncommercial stations, as a group, may have more difficulty with the transition to DTV than commercial stations,” and it therefore concluded that “noncommercial stations need and warrant special relief to assist them in the transition.”³

² See <http://www.cpb.org/about/corp/board/resolutions/0206_ddf.pdf> and Attachment 1, *CPB Resolution Authorizing DUSF Program*.

³ *Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, Fifth Report and Order*, 12 FCC Rcd 12809, 12847-48, ¶ 93 (1997) (“*Fifth Report and Order*”).

For these reasons, Rocky Mountain submits that its special status as a noncommercial educational station provides a compelling and disparities consideration weighing in favor of KTSC's DTV channel election.

C. The Permittees Knowingly Entered into the Agreement.

After due consideration of the factors discussed above, McGraw-Hill and Rocky Mountain voluntarily and independently determined that their stations should retain their NTSC channel assignments and consent to the mutual interference. The parties most affected by the predicted interference, therefore, have analyzed all their options and concluded that mutual interference consents in the form of the Agreement reflect the most efficient allocation of rights, responsibilities, and resources. In light of the unusual, if not unique, circumstances presented in this case, the Commission should recognize the public interest benefits resulting from the voluntary solution reached at arms' length by the affected broadcasters here.

Conclusion

For these reasons, McGraw-Hill and Rocky Mountain respectfully submit that the Commission's approval of the Interference Acceptance Agreement would serve the public interest. While very concerned about any instances of predicted interference, a consideration of all relevant factors led McGraw-Hill and Rocky Mountain independently to decide to retain the NTSC assigned channels for their television stations and enter into the Agreement. Most importantly for the permittees and the Commission, the parties have concluded that their DTV channel elections will result in new interference, on paper only, of 0.3 percent (KMGH) and 1.3 percent (KTSC) and no new loss of actual (non-technical) service for either television station.

Consequently, McGraw-Hill and Rocky Mountain respectfully request that the Commission approve the Agreement and grant the KMGH's election of Channel 7 for post-transition operation and KTSC's election of Channel 8 for post-transition operation.

**ROCKY MOUNTAIN PUBLIC
BROADCASTING NETWORK, INC.**

By: /s/ Margaret L. Miller
Margaret L. Miller

Dow, Lohnes & Albertson, PLLC
1200 New Hampshire Ave, N.W.
Washington, D.C. 20036-6802
202-776-2000

August 15, 2005

Respectfully Submitted,

**MCGRAW-HILL BROADCASTING
COMPANY, INC.**

By: /s/ Kevin P. Latek
Kevin P. Latek

Dow, Lohnes & Albertson, PLLC
1200 New Hampshire Ave, N.W.
Washington, D.C. 20036-6802
202-776-2000